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EXAMINER	
WU, RUTAO	
ART UNIT	**PAPER NUMBER**
3639	

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/944,803	AYERS ET AL.	
	Examiner	Art Unit	
	Rutao Wu	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 August 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Regarding claims 1, 4, 7, 22, 33, 36, 40, the phrase "("second product sales data set")", "("first store time")", "("second store time")", "("store time")", renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

3. The term "substantially" in claims 5 and 23 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

4. Claim 14 recites the limitation "said adjustment" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. Claims 25 and 42 recite the limitation "said adjustment" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-12, 21-24, 33-41 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat No. 6,789,096 to Sankaran et al.

Referring to claim 1:

In preparing predetermined information relating to product sales, as required by a regulatory entity not a party to the sales, from product sales data describing the sales maintained in one or more external computer and/or database systems, where the product sales data at least describes products sold, prices at which the products were sold, adjustments to sales of the products and parties to which the products were sold, and where the information is derived from the product sales data through one more predetermined algorithms, a computerized method of acquiring and managing the product sales data, said method comprising the steps of:

receiving a first set of said product sales data from said one more external systems; (col 6: lines 30-31)

storing said first product sales data set; (col 6: lines 28-30, 40-41)

replacing or modifying said first product sales data set, while maintaining said first product sales data as it existed prior to said replacing or modifying step so that it is distinguishable from said replaced or modified product sales data set ("second product sales data set"); (col 9: lines 41-45)

selecting one of said first product sales data set and said second product sales data set; (col 3: lines 62-63; col 9: 28-32)

executing said one or more algorithms upon said product sales data set selected at said selecting step; and (col 8: lines 13-14; col 9: lines 33)

storing a first set of said information derived at said executing step.(col 3: lines 32-35; 51-52, 62-64; col 5: lines 12-14; col 8: lines 17-18; col 9: line 33)

Referring to claim 2:

The method as in claim 1, including

Repeating said selecting and executing steps for the other of said first product sales data set and said second product sales data set, and (col 3: lines 51-53, 62-63)

Storing a second set of said information derived at said repeated executing step, while maintaining said first information set as it existed following said first executing step. (col 3: lines 51-53, 62-63, col 5: lines 12-14; col 8: lines 11-15, 18-20)

Referring to claim 3:

The method as in claim 1, wherein said first storing step includes storing said first product sales data set in association with a first timing tag, said first timing tag being related to a time at which said first product sales data set is received. (col 9: lines 42-45)

Referring to claim 4:

The method as in claim 3, wherein said timing tag includes a time at which said first product sales data set is received ("first store time") and a first expiration time. (col 9: lines 42-46)

Referring to claim 5:

The method as in claim 4, wherein said first expiration time defaults at said first storing step to a date substantially beyond said first store time. (col 3: lines 57-58; col 7: line 49; col 9: line 16-17)

Referring to claim 6:

The method as in claim 4, wherein said replacing or modifying step includes storing said second product sales data set with a second timing tag, said second timing tag being related to a time at which said first product sales data set is replaced or modified. (col 9: lines 42-43)

Referring to claim 7:

The method as in claim 6, wherein said second timing tag includes a time at which said first product sales data set is replaced or modified ("second store time") and a second expiration time, and wherein said replacing or modifying step includes changing said first expiration time to equal said second store time. (col 9: lines 42-43)

Referring to claim 8:

The method as in claim 7, wherein said selecting step includes selecting a desired time and selecting said product sales data set having an effective period, said effective period being defined by said store time and said expiration time of said product sales data, within which said desired time falls. (col 3: lines 60-61; col 7: lines 50-53; col 8: lines 10-12; col 9: lines 24-26, 42-45)

Referring to claim 9:

The method as in claim 3, wherein said first product sales data set includes a plurality of data records, and wherein each said data record includes a said first timing tag. (col 2: lines 27-31)

Referring to claim 10:

The method as in claim 1, wherein said replacing or modifying step include receiving said second product sales data set from said one or more external system. (col 6: lines 30-31)

Referring to claim 11:

The method as in claim 1, wherein said first product sales data describes said sales occurring over a predetermined period of time, and wherein said second product sales data set describes said sales occurring over the same said predetermined period as said first product sales data set. (col 7: lines 41-43)

Referring to claim 12:

The method as in claim 11,

Wherein said second storing step includes storing said first information set in association with a first timing tag, said first timing tag being related to a time at which said first information set is derived at said executing step, (col 8: lines 17-21; col 9: lines 28-33, 41-47)

Wherein said method includes repeating said selecting and executing steps for the other of said first product sales data set and said second product sales data set, and storing a second set of said information derived at said repeating executing step in association with a second timing tag, said second timing tag being related to a time at

which said second information set is derived at said repeated executing step. (col 3: lines 51-55; col 8: lines 10-20)

Referring to claim 21:

In preparing predetermined information relating to product sales, as required by a regulatory entity not a party to the sales, from product sales data describing the sales maintained in one or more external computer and/or database systems, where the product sales data at least describes products sold, prices at which the products were sold, adjustments to sales of the products and parties to which the products were sold, and where the information is derived from the product sales data through one or more predetermined algorithms, a computerized method of acquiring and managing the product sales data, said method comprising the steps of:

receiving a plurality of sets of said product sales data from said one or more external systems, wherein each said product sales data set describes said sales occurring over a predetermined period of time and wherein said predetermined period of time is the same each of said plurality of product sales data sets; (col 6: lines 30-31; col 7: lines 41-43)

storing each said product sales data set in association with a timing tag, said timing tag being related to a time at which said product sales data set is received; (col 9: lines 42-46)

selecting one of said product sales data sets through its said associated timing tag; (col 3: lines 60-61; col 7: lines 50-53; col 8: lines 10-12; col 9: lines 24-26, 42-45)

executing said one or more algorithms upon said product sales data set selected at said selecting step; and (col 8: lines 13-14; col 9: lines 33)

storing a first set of said information derived at said executing step. (col 3: lines 32-35; 51-52, 62-64; col 5: lines 12-14; col 8: lines 17-18; col 9: line 33)

Referring to claim 22:

The method as in claim 21, wherein each said timing tag includes a time at which its associated said product sales data set is received ("store time") and an expiration time and wherein, for each said product sales data set having a next subsequently received product sales data set, said expiration time is equal to said store time of said next subsequently received product sales data set. (col 9: lines 42-46)

Referring to claim 23:

The method as in claim 22, wherein, upon said storing step for each said product sales data set and prior to said storing step for a subsequent said product sales data set, said expiration time defaults to a date substantially beyond said store time. (col 3: lines 57-58; col 7: line 49; col 9: line 16-17)

Referring to claim 24:

The method as in claim 22, wherein said selecting step includes selecting a desired time and selecting said product sales data set having an effective period, said effective period being defined by said stored time and said expiration time of said product sales data, within which said desired time falls. (col 3: lines 60-61; col 7: lines 50-53; col 8: lines 10-12; col 9: lines 24-26, 42-45)

Referring to claim 33:

In preparing predetermined information relating to product sales, as required by a regulatory entity not a party to the sales, from product sales data describing the sales maintained in one or more external computer and/or database systems, where the product sales data at least describes products sold, prices at which the products were sold, adjustments to sales of the products and parties to which the products were sold, and where the information is derived from the product sales data through one or more predetermined algorithms, a computerized system for acquiring and managing the product sales data, said system comprising:

A computer program configured to receive a first set of said product sales data from said one or more external systems; and (col 6: lines 30-31)

A database; (col 3: lines 32-35)

Wherein said computer program is configured to store said first product sales data set in said database, (col 6: lines 28-30, 40-41)

Replace or modify said first product sales data set, while maintaining said first product sales data as it existed prior to said replacement or modification so that it is distinguishable from said replaced or modified product sales data set ("second product sales data set"), (col 9: lines 41-45)

Receive a selection of one of said first product sales data set and said second product sales data set, (col 3: lines 62-63; col 9: 28-32)

Execute, responsively to receipt of said selection, said one or more algorithms upon said selected product sales data set, and (col 8: lines 13-14; col 9: lines 33)

Store a first set of said information derived from said selected product sales data set. (col 3: lines 32-35; 51-52, 62-64; col 5: lines 12-14; col 8: lines 17-18; col 9: line 33)

Referring to claim 34:

The system as in claim 33, wherein said computer program is configured to

Receive a selection of the other of said first product sales data set and said second product sales data set, (col 3: lines 62-63; col 9: 28-32)

Execute, responsively to receipt of said selection, said one or more algorithms upon said other of said first product sales data set and said second product sales data set, and (col 3: lines 51-53, 62-63)

Store a second set of said information derived from said other of said first product sales data set and said second product sales data set, while maintaining said first information set. (col 3: lines 51-55, 62-63, col 5: lines 12-14; col 8: lines 10-20, 18-20)

Referring to claim 35:

The system as in claim 33, wherein said computer program is configured to store said first product sales data set in association with a first timing tag, said first timing tag being related to a time at which said first product sales data set is received. (col 9: lines 42-45)

Referring to claim 36:

The system as in claim 35, wherein

Said timing tag includes a time at which said first product sales data set is received ("first store time") and a first expiration time, (col 9: lines 42-46)

Said computer program is configured to store said second product sales data set with a second timing tag, said second timing tag being related to a time at which said first product sales data set is replaced or modified, (col 9: lines 42-43)

Said second timing tag includes a time at which said first product sales data set is replaced or modified ("second store time") and a second expiration time, and (col 9: lines 42-46)

Said computer program is configured to, upon replacing or modifying said first product sales data set, change said first expiration time to equal said second store time. (col 9: lines 42-46)

Referring to claim 37:

The system as in claim 36, wherein said computer program is configured to, upon receiving a desired time, select said product sales data set having an effective period, said effective period being defined by said store time and said expiration time of said product sales data, within which said desired time falls. (col 3: lines 60-61; col 7: lines 50-53; col 8: lines 10-12; col 9: lines 24-26, 42-45)

Referring to claim 38:

The system as in claim 33, wherein

Said first product sales data describes said sales occurring over a predetermined period of time, and wherein said second product sales data set describes said sales

occurring over the same said predetermined period as said first product sales data set, (col 7: lines 41-43)

Said computer program is configured to store said first information set in association with a first timing tag, said first timing tag being related to a time at which said first information set is derived at said executing step, (col 8: lines 17-21; col 9: lines 28-33, 41-47)

Said computer program is configured to receive a selection of the other of said first product sales data set and said second product sales data set, (col 3: lines 62-63; col 9: 28-32)

Said computer program is configured to, responsively to receipt of said selection, execute said one or more algorithms upon said other of said first product sales data set and said second product sales data set, and (col 3: lines 51-53, 62-63)

Said computer program is configures to store a second set of said information derived from said other of said first product sales data set and said second product sales data set in association with a second timing tag, said second timing tag being related to a time at which said second information set is derived. (col 3: lines 51-55; col 8: lines 10-20)

Referring to claim 39:

In preparing predetermined information relating to product sales, as required by a regulatory entity not a party to the sales, from product sales data describing the sales maintained in one or more external computer and/or database systems, where the product sales data at least describes product sold, prices at which the products were

sold, and where the information is derived from the product sales data through one or more predetermined algorithms, a computerized system for acquiring and managing the product sales data, said system comprising:

A computer program configured to receive a plurality of sets of said product sales data from said one or more external systems, wherein each said product sales data set describes said sales occurring over a predetermined period of time and wherein said predetermined period of time is the same for each of said plurality of product sales data sets; and (col 7: lines 41-43)

A database,

Wherein said computer program is configured to store each said product sales data set in said database in association with a timing tag, said timing tag being related to a time at which said product sales data set is received, (col 9: lines 42-45)

Receive a selection of one of said product sales data sets through its said associated timing tag, (col 3: lines 62-63; col 9: 28-32)

Execute, responsively to receipt of said selection, said one or more algorithms upon said product sales data set selected at said selecting step, and (col 8: lines 13-14; col 9: lines 33)

Store a first set of said information derived from said selected product sales data set. (col 3: lines 32-35; 51-52, 62-64; col 5: lines 12-14; col 8: lines 17-18; col 9: line 33)

Referring to claim 40:

The system as in claim 39, wherein each said timing tag includes a time at which its associated said product sales data set is received ("store time") and an expiration time and wherein, for each said product sales data set having a next subsequently received product sales data set, said expiration time is equal to said store time of said next subsequently received product sales data set. (col 9: lines 42-46)

Referring to claim 41:

The system as in claim 40, wherein said computer program is configured to, upon receiving a desired time, select said product sales data set having an effective period, said effective period being defined by said store time and said expiration time of said product sales data, within which said desired time falls. (col 3: lines 60-61; col 7: lines 50-53; col 8: lines 10-12; col 9: lines 24-26, 42-45)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 13, 15-19, 28-32, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran et al.

As per **Claim 13**, *Sankaran et al* disclose a database that collects sales data and then aggregate into a target database stored in the data warehouse. The target

database may reflect, for example, summary year-to-date sales by geographic region. (col 2: lines 27-31)

Sankaran et al fail to expressly disclose that the sales data is pharmaceutical sales data.

However, the difference between sales data and pharmaceutical sales data are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The receiving, storing and aggregating steps would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004); *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to have a database storing product sales data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

It would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention that the sales data includes the number of product sold, and the prices at which said products were sold. It is obvious because Sankaran discloses that

the target database may reflect a summary of year-to-date sales, which would mean that it must know the number of products sold and the price for those sold products.

As per **Claim 15**, Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

As per **Claim 16**, Sankaran et al discloses aggregation transformation calculates sum using the entire range of data. (col 7: lines 9-10)

Sankaran et al fail to expressly disclose that the sales data is from said parties to which said products are sold are wholesalers that in turn sell said products to retail pharmacies. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to retail pharmacies and then aggregate those data.

As per **Claim 17**, Sankaran et al does not disclose the algorithms determine a best price of selected products. Sankaran et al does disclose a rank transformation that filters the top or bottom range of records based on user defined conditions (col 7: lines 14-15). Therefore it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to rank the sales data according to sales price and select the best price of products.

As per **Claim 18**, Sankaran et al does not disclose excluding nominal price of selected products in finding the best price. Sankaran et al does disclose a filter transformation that filters records based on user defined conditions (col 7: lines 12-13). Therefore it would have been obvious to a person of ordinary skill in the art at the time

of applicant's invention to filter out nominal prices of selected products and then use the rank transformation to determine the best price.

As per **Claim 19**, Sankaran et al discloses aggregation transformation calculates average value and sum using the entire range of data. (col 7: lines 9-10)

Sankaran et al fail to expressly disclose that the sales data is from non-federal customers. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to non-federal customers and then aggregate those data.

As per **Claim 28**, Sankaran et al discloses receiving product sales data from one or more external systems. (col 6: lines 30-31)

Sankaran et al discloses storing said product sales data set (col 6: lines 30-31)

Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al does not disclose the algorithms determine a best price of selected products. Sankaran et al does disclose a rank transformation that filters the top or bottom range of records based on user defined conditions (col 7: lines 14-15). Therefore it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to rank the sales data according to sales price and select the best price of products.

Sankaran et al discloses aggregation transformation calculates average value and sum using the entire range of data. (col 7: lines 9-10)

Sankaran et al fail to expressly disclose that the sales data is from non-federal customers. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to non-federal customers and then aggregate those data.

Sankaran et al discloses storing and outputting said average manufacturing prices, best price, and non-federal average manufacturing price. (col 3: lines 32-35, 51-54, 62-64; col 5: lines 12-13 56-58; col 8: lines 13-15; col 9: lines 30-34)

As per **Claim 29**, Sankaran et al discloses a user defined session that can be divided into a series of contiguous time intervals. (col 7: lines 49-51) Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to specify sessions a calendar quarters.

As per **Claim 30**, Sankaran et al discloses outputting average manufacture prices and best prices to other computer systems (col 5: lines 65-67)

Sankaran et al fail to expressly disclose that the remote system manages state Medicaid payments.

However, the difference between other computer systems and a system that manages state Medicaid payments are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The receiving, storing and aggregating steps would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed

invention carry little or no patentable weight. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004); *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to output data to a remote system that manages state Medicaid payments because such output of data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claims 31 and 32**, Sankaran et al fail to expressly disclose predefined trade classes describing pharmaceutical customers, such as wholesales, retail or federal trade classes.

However, define customers into trade classes are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The receiving, storing and aggregating steps would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004); *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ

401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention to separate the customer information into trade classes because such classes does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per **Claim 45**, Sankaran et al discloses a program to receive a set of product sales data from one or more external systems. (col 7: lines 41-43)

Sankaran et al discloses a database that stores said sales data. (col 6: lines 28-30, 40-41)

Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al does not disclose the algorithms determine a best price of selected products. Sankaran et al does disclose a rank transformation that filters the top or bottom range of records based on user defined conditions (col 7: lines 14-15). Therefore it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to rank the sales data according to sales price and select the best price of products.

Sankaran et al fail to expressly disclose that the sales data is from non-federal customers. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to

only include wholesalers that in turn sell said products to non-federal customers and then aggregate those data.

Sankaran et al discloses storing and outputting said average manufacturing prices, best price, and non-federal average manufacturing price. (col 3: lines 32-35, 51-54, 62-64; col 5: lines 12-13 56-58; col 8: lines 13-15; col 9: lines 30-34)

10. Claims 14, 20, 25-27, 32, 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sankaran et al in view of U.S. Pat No. 6,226,618 to Downs et al.

As per **Claim 14**, Sankaran et al does not disclose that its sales data include adjustments to prices, rebates and charge backs. However, Downs et al discloses in his patent that the Clearinghouse stores information about current specials, volume discounts, etc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sankaran et al's database to also include data about price adjustments. One would be motivated to perform such modification because database can be configured to store different data without altering the art of storing information in a database.

As per **Claim 20**, Sankaran et al does not disclose the ability of outputting information in a report format. Downs et al discloses in his invention that the Clearinghouse has the ability of report generation. (Col 11: line 15) Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sankaran et al's invention to include the ability to generate reports. One would be motivated to perform such modification to be able to present reports of the sales data to the users.

As per **Claim 25**, *Sankaran et al* disclose a database that collects sales data and then aggregate into a target database stored in the data warehouse. The target database may reflect, for example, summary year-to-date sales by geographic region. (col 2: lines 27-31)

Sankaran et al fail to expressly disclose that the sales data is pharmaceutical sales data.

However, the difference between sales data and pharmaceutical sales data are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The receiving, storing and aggregating steps would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004); *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to have a database storing product sales data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

It would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention that the sales data includes the number of product sold, and the prices at which said products were sold. It is obvious because Sankaran discloses that the target database may reflect a summary of year-to-date sales, which would mean that it must know the number of products sold and the price for those sold products.

Sankaran et al does not disclose that its sales data include adjustments to prices, rebates and charge backs. However, Downs et al discloses in his patent that the Clearinghouse stores information about current specials, volume discounts, etc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sankaran et al's database to also include data about price adjustments. One would be motivated to perform such modification because database can be configured to store different data without altering the art of storing information in a database.

As per **Claim 26**, Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al does not disclose the algorithms determine a best price of selected products. Sankaran et al does disclose a rank transformation that filters the top or bottom range of records based on user defined conditions (col 7: lines 14-15). Therefore it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to rank the sales data according to sales price and select the best price of products.

Sankaran et al fail to expressly disclose that the sales data is from non-federal customers. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to non-federal customers and then aggregate those data.

As per **Claim 27**, Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al discloses aggregation transformation calculates sum using the entire range of data. (col 7: lines 9-10)

Sankaran et al fail to expressly disclose that the sales data is from said parties to which said products are sold are wholesalers that in turn sell said products to retail pharmacies. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to retail pharmacies and then aggregate those data.

As per **Claim 42**, *Sankaran et al* disclose a database that collects sales data and then aggregate into a target database stored in the data warehouse. The target database may reflect, for example, summary year-to-date sales by geographic region. (col 2: lines 27-31)

Sankaran et al fail to expressly disclose that the sales data is pharmaceutical sales data.

However, the difference between sales data and pharmaceutical sales data are only found in the non-functional descriptive material and are not functionally involved in the steps recited. The receiving, storing and aggregating steps would be performed the same regardless of the descriptive material since none of the steps explicitly interact therewith. Limitations that are not functionally interrelated with the useful acts, structure, or properties of the claimed invention carry little or no patentable weight. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Ngai*, 70 USPQ2d 1862 (CAFC 2004); *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to have a database storing product sales data because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

It would also have been obvious to a person of ordinary skill in the art at the time of applicant's invention that the sales data includes the number of product sold, and the prices at which said products were sold. It is obvious because Sankaran discloses that the target database may reflect a summary of year-to-date sales, which would mean that it must know the number of products sold and the price for those sold products.

Sankaran et al does not disclose that its sales data include adjustments to prices, rebates and charge backs. However, Downs et al discloses in his patent that the

Clearinghouse stores information about current specials, volume discounts, etc. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Sankaran et al's database to also include data about price adjustments. One would be motivated to perform such modification because database can be configured to store different data without altering the art of storing information in a database.

As per **Claim 43**, Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al does not disclose the algorithms determine a best price of selected products. Sankaran et al does disclose a rank transformation that filters the top or bottom range of records based on user defined conditions (col 7: lines 14-15). Therefore it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to rank the sales data according to sales price and select the best price of products.

Sankaran et al fail to expressly disclose that the sales data is from non-federal customers. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to non-federal customers and then aggregate those data.

As per **Claim 44**, Sankaran et al discloses aggregation transformation calculates average value using the entire range of data. (col 7: lines 9-10)

Sankaran et al discloses aggregation transformation calculates sum using the entire range of data. (col 7: lines 9-10)

Sankaran et al fail to expressly disclose that the sales data is from said parties to which said products are sold are wholesalers that in turn sell said products to retail pharmacies. However, Sankaran et al discloses a filter transformation that filter records based on user set conditions. Therefore it would be obvious to filter the sales data to only include wholesalers that in turn sell said products to retail pharmacies and then aggregate those data.

Conclusion

1. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pub 2003006978 to Menninger et al.

U.S. Pub 20020099563 to Adendorff et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rutao Wu whose telephone number is (571)272-3136. The examiner can normally be reached on Mon-Fri 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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